

1 of 2

1 JAMES H. CUNNINGHAM  
2 V-72323  
3 AVEVAL STATE PRISON  
4 AVEVAL, CO 93204  
5 P.O. Box #9 03.L

FILED

2008 SEP 18 PM 3: 56

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Rm

BY **NUNC PRO TUNC**

SEP 17 2008

UNITED STATES District Court  
Southern District of California

11 JAMES H. CUNNINGHAM (Petitioner)

12 V.

13 JAMES HATLY (Warden)

Motion: Extension of 10 days  
due to AVEVAL PRISON  
PROCEDURE'S  
SO TO REPLY ON RPR  
Report and Recommendation.

\* RECEIVED 9-12-08 \*

21 To The Honorable Court:

22 IN RE: Extension for ten days base on grounds that Petitioner holds  
23 Limited time slot. Petition received the Courts "notice" Pertaining to an  
24 RPR REPORT AND RECOMMENDATION. Am will reply (SAP) soon as possible.  
25 However Petitioner will need additional time to fully object, which is  
26 cause for research. AVEVAL State Prison holds a procedure and process for  
27 entry of their Library. Starting a educating process which could take up  
28 to a week before you are solicited. So to be in accordance with the

Honorable Courts request is serious. wherein due process is major and a constitutional right 14<sup>th</sup> Amend. Supporting facts require that a prose defendant have access to legal sources. Petitioner does exercise his right wherein Prison an the outlet to court. An holds 4P E.g. U.S. V. Kind, 194 F.3d 90, 905 (8<sup>th</sup> Cir 1999) (defendant has due process right of access to legal resources); Briberesca V. Gabza, 215 F.3d, 1015, 1020 9<sup>th</sup> Cir. 2000). Incarcerated criminal defendant has right of access to legal materials too. assist in self-representation. Therefore Petitioner humble ask the Honorable Courts support his cause.

I, James H. Cunningham declare under penalty  
and perjury the above is true and correct  
to his beliefs.

EXECUTED and Mailed: Date 9-14-08

Sign: James H. Cunningham

**Other Orders/Judgments**3:07-cv-02183-DMS-BLM Cunningham v. Marshall**U.S. District Court****Southern District of California****Notice of Electronic Filing**

The following transaction was entered on 9/8/2008 at 11:33 AM PDT and filed on 9/8/2008

**Case Name:** Cunningham v. Marshall**Case Number:** 3:07-cv-2183**Filer:****Document Number:** 39**Docket Text:**

**REPORT AND RECOMMENDATION** denying Petitioner's Request for Stay and Abeyance re [19]. The Court recommends that the district court Deny Petitioners request to hold his Amended Petition in abeyance pending state court exhaustion of Grounds One, Two, and Three. (Objections to R&R due by 9/26/2008. Replies due by 10/10/2008.) Signed by Magistrate Judge Barbara Lynn Major on 9/8/08. (All non-registered users served via U.S. Mail Service).(lao)

**3:07-cv-2183 Notice has been electronically mailed to:**

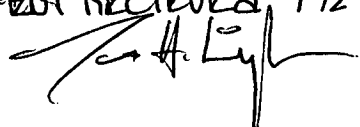
Attorney General docketingsdawt@doj.ca.gov

Jennifer Anne Jadovitz jennifer.jadovitz@doj.ca.gov, DocketingSDAWT@doj.ca.gov,  
ECFCoordinator@doj.ca.gov, anna.herrera@doj.ca.gov**3:07-cv-2183 Notice has been delivered by other means to:**James H Cunningham  
V-72323  
Avenal State Prison  
PO Box 8  
Avenal, CA 93204

The following document(s) are associated with this transaction:

**Document description:**Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1106146653 [Date=9/8/2008] [FileNumber=2821599-0]  
[8501b2c304694d53a2a5499d66dfcb6977c2452b1bd0d33008ba7fbf40439779c368  
3c03108698e2c30f53c40e9030073cef3fa9329995a85c9ab0af5a1b233c]]

DOCUMENT RECEIVED 9-12-08  


California State Department of Corrections & Rehabilitation  
Avenal Central Law Library

**REQUEST FOR VERIFICATION OF 60-DAY COURT DEADLINE**

**PRINT ALL INFORMATION CLEARLY:**

INMATE NAME: JAMES H. CUMMINGS CDC NUMBER: V-72323  
DATE OF THIS APPLICATION: 9-14 HOUSING: 220 #2 yard 031L  
WORK ASSIGNMENT: UN a sign RDO: Ø

DATE OF THIS LEGAL DEADLINE: 9-26-2008 CASE NUMBER: 3:07-cv-183  
NAME OF COURT: U.S. District Court Southern District of California  
ADDRESS: 880 Front Street, Suite 4290 San Diego, CA 92101-8900  
CITY: San Diego STATE: CA ZIP: 92101-8900  
NAME OF COURT CLERK OR JUDGE: Barbara L. Major PHONE: \_\_\_\_\_  
NAME OF ATTORNEY: Pro se - self  
ADDRESS: Avenal State Prison  
CITY: Avenal STATE: CA ZIP: 93204

**DO NOT WRITE BELOW**

**DO NOT WRITE BELOW**

**STAFF USE ONLY**

**VERIFICATION OF LEGAL DEADLINE:**

- |                                   |
|-----------------------------------|
| <input type="checkbox"/> Approved |
| <input type="checkbox"/> Denied   |

\_\_\_\_\_  
(PRINT NAME OF LIBRARIAN)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(SIGNATURE OF LIBRARIAN)


## PROOF OF SERVICE BY MAIL

I THE UNDERSIGNED, CERTIFY THAT I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE. THAT I CAUSED TO BE SERVED A COPY OF THE FOLLOW DOCUMENT:

ENTITLED: Motion for a EXTENSION of TEN<sup>10</sup> days.  
To The Honorable Magistrate Judge Barbara Lynn Major

EXECUTED ON 9-14-08 AT Avenal State Prison, Avenal California

I, JAMES H. CUNNINGHAM, DECLARE UNDER PENALTY OF PERJURY under the Law of the STATE of California that the foregoing is true and correct.

  
SIGNATURE of Declarant

JAMES H. CUNNINGHAM  
PRINT NAME of Declarant

PRO SE  
JAMES H. CUNNINGHAM